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*1st Session*

SENATE

{ REPORT  
108-207

**FEDERAL LAW ENFORCEMENT PAY AND  
BENEFITS PARITY ACT OF 2003**

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**R E P O R T**

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

TO ACCOMPANY

**S. 1683**

TO PROVIDE FOR A REPORT ON THE PARITY OF PAY AND BENEFITS AMONG FEDERAL LAW ENFORCEMENT OFFICERS AND TO ESTABLISH AN EXCHANGE PROGRAM BETWEEN FEDERAL LAW ENFORCEMENT EMPLOYEES AND STATE AND LOCAL LAW ENFORCEMENT EMPLOYEES



NOVEMBER 22, 2003.—Ordered to be printed

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FEDERAL LAW ENFORCEMENT PAY AND BENEFITS  
PARITY ACT OF 2003

NOVEMBER 22, 2003.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,  
submitted the following

R E P O R T

[To accompany S. 1683]

The Committee on Governmental Affairs, to which was referred the bill (S. 1683) to provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees, having considered the same report favorably thereon without amendments and recommend that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 1683, the Federal Law Enforcement Pay and Benefits Parity Act of 2003, is to require the Office of Personnel Management to review the classifications, pay, and benefits of law enforcement officers employed within the federal government. The intent of this study contained in the bill is to identify ways of eliminating disparities and thereby to avoid the problems in recruitment and retention and unfairness to employees that can result in agencies where the pay and benefits are unduly low. The legislation would also establish an employee exchange program between fed-

eral law enforcement agencies and state and local law enforcement agencies to encourage the exchange of best practices and maintain a well-trained workforce. The employee exchange program established under the bill would be conducted in accordance with provisions of the Intergovernmental Personnel Act.<sup>1</sup>

## II. BACKGROUND

Federal law enforcement officers in different offices and agencies are frequently covered by different compensation and benefit systems. These discrepancies, if not justified by differences in training, responsibilities, or other relevant factors, can result in problems of recruitment and retention and unfairness to employees at agencies where the pay and benefits are seen as unduly low.

Such differences and resultant problems have expanded significantly since the creation of the Transportation Security Administration in 2001. Congress created the Transportation Security Administration,<sup>2</sup> in order to address a weakness in our homeland defenses. The creation of the Transportation Security Administration led to a rapid expansion of the Federal Air Marshal Program, which is designed to provide protection against hijacking and terrorist attacks on domestic and international airline flights. Because Federal Air Marshals are not limited to the grade and pay step structure of the General Schedule, Federal Air Marshals were offered higher compensation and more flexible benefit packages than many other federal police forces.

On November 25, 2002, the Homeland Security Act of 2002 was enacted into law.<sup>3</sup> The Act, among other things, transferred the Transportation Security Administration into the newly created Department of Homeland Security. Federal Air Marshals continued to receive pay and benefits substantially higher than many other federal law enforcement agencies, including the Federal Protective Service and Secret Service Uniformed Division, which were also folded into the Department of Homeland Security. As a result, many federal law enforcement professionals left their police forces to work under the Transportation Security Administration as Federal Air Marshals.

The differences in pay and benefits among federal law enforcement officers at different agencies, and the recruitment and retention problems that can result, are illustrated in a recent report by the U.S. General Accounting Office (GAO) compiling data on pay, recruitment, and retention at 13 federal police forces in the Washington, D.C. Metropolitan Area.<sup>4</sup> According to this report, the total turnover at the 13 large federal uniformed police forces in the Washington, D.C. area studied in the report nearly doubled (from 375 to 729) between fiscal years 2001 and 2002. During fiscal year 2002, 8 of the 13 police forces experienced their highest annual turnover rates over a 6-year period, from fiscal years 1997 through 2002. GAO found that the number (316) of police officers who voluntarily separated from the 13 police forces to take positions at TSA nearly equaled the increase in the total number of separations

<sup>1</sup> 5 U.S.C. §§3371 and following.

<sup>2</sup> P.L. 107-71.

<sup>3</sup> P.L. 107-296.

<sup>4</sup> Federal Uniformed Police: Selected Data on Pay, Recruitment, and Retention at 13 Police Forces in the Washington, D.C. Metropolitan Area, GAO-03-658, at pages 15-18, June 2003.

(354) that occurred between fiscal years 2001 and 2002. Combined, these departures have left many federal law enforcement departments short-handed and competing for recruits. Additionally, the Department of Homeland Security's new flexible personnel system,<sup>5</sup> which is expected to be established early in 2004, could result in further differences between the pay and benefits for law enforcement officers at the Department and those at other agencies, potentially creating additional unfair discrepancies in pay and benefits and recruitment and retention challenges for certain federal law enforcement departments.

In addition to the challenge posed by the establishment of new personnel systems that may offer law enforcement officers higher pay and benefits, GAO noted a wide disparity in compensation at the existing federal law enforcement agencies that it studied in the D.C. area. During fiscal year 2002, GAO found that entry-level police officer salaries varied by more than \$10,000 across the 13 police forces, from a high of \$39,427 per year to a low of \$28,801 per year. Four of the 13 police forces received federal law enforcement retirement benefits.<sup>6</sup> Addressing disparities such as these requires a comprehensive examination of all federal law enforcement classification, pay, and benefit systems.

The study required under this legislation should assist this Committee and others in Congress as we attempt to address these disparities. Specifically, the legislation would require the Office of Personnel Management to review the classification, compensation, and benefits for the federal government's law enforcement officers by April 30, 2004. OPM would be required to make recommendations for the elimination of disparities in classifications, pay, and benefits for law enforcement officers throughout the federal government, which would be helpful to the Committee and others in Congress as we evaluate legislative solutions in an attempt to address the recruitment and retention problems caused by unfair discrepancies within the federal law enforcement community. Eliminating the existing discrepancies will avoid the current unfairness to individuals who choose a career as a federal law enforcement officer.

The legislation would also establish an employee exchange program between federal law enforcement agencies and state and local law enforcement agencies to encourage the exchange of best practices and maintain a well-trained workforce. The employee exchange program established in the bill would be conducted in accordance with provisions of the Intergovernmental Personnel Act.<sup>7</sup> The Intergovernmental Personnel Act Mobility Program provides for the temporary assignment of personnel between the Federal Government and state and local governments, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations.

The exchange program established under the legislation would foster collaborative interpersonal relationships between our law enforcement communities. Building such relationships between members of the law enforcement community and understanding the culture of the respective agencies would help officers at all levels of

<sup>5</sup>P.L. 107-296.

<sup>6</sup>Federal Uniformed Police: Selected Data on Pay, Recruitment, and Retention at 13 Police Forces in the Washington, D.C. Metropolitan Area, GAO-03-658, page 9, June 2003.

<sup>7</sup>P.L. 91-648, 5 U.S.C. §§ 3371 and following.

government meet the challenge of protecting our homeland and fulfilling other critical law enforcement missions.

### III. LEGISLATIVE HISTORY

S. 1683 was introduced on September 30, 2003, by Senator George V. Voinovich and cosponsored by Senator Susan M. Collins, and was referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on October 1, 2003. S. 1683 was favorably polled from the Subcommittee on October 6, 2003. The Committee on Governmental Affairs favorably reported S. 1683 by voice vote on October 22, 2003.

Present were Senators Collins, Akaka, Bennett, Coleman, Fitzgerald, Lautenberg, Levin, Pryor and Voinovich.

### IV. SECTION-BY-SECTION ANALYSIS

#### *Sec. 1. Short title*

This section establishes the short title of the bill as the “Federal Law Enforcement Pay and Benefits Parity Act of 2003.”

#### *Sec. 2. Law Enforcement Pay and Benefits Parity Report*

Subsection (a) establishes the definition of law enforcement officer to be an individual who is defined as a law enforcement officer under section 8331 or 8401 of title 5, U.S. Code, or an individual who is employed by the federal government and whose duties include the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the United States.

Subsection (b) directs the Office of Personnel Management to review the classification, pay, and benefits of federal law enforcement officers, and requires OPM to submit a report to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees of Congress by April 30, 2004. Subsection (b) states that the report shall include: (1) a comparison of classifications, pay, and benefits among law enforcement officers across the federal government; and (2) recommendations for ensuring, to the maximum extent practicable, the elimination of disparities in classifications, pay, and benefits for law enforcement officers throughout the federal government.

#### *Sec. 3. Employee exchange program between Federal employees and employees of State and local governments*

Subsection (a) defines the terms “employing agency,” “participating employees” and “program” for Section 3.

Subsection (b) requires the establishment of an employee exchange program between federal law enforcement agencies and state and local law enforcement agencies.

Subsection (c) states that the program shall be conducted in accordance with subchapter VI of chapter 33 of title 5, U.S. Code (provisions of the Intergovernmental Personnel Act).

Subsection (d) states that an employee of an employing agency who performs law enforcement functions may be selected to participate in the Program if the employee has been employed by that employing agency for a period of more than 3 years; has had appro-

priate training or experience to perform the work required by the assignment; has had an overall rating of satisfactory or higher on performance appraisals from the employing agency during the 3-year period before being assigned to another agency under this section; and agrees to return to the employing agency after completing the assignment for a period not less than the length of the assignment.

Subsection (e) would require that an employee shall enter into a written agreement regarding the terms and conditions of the assignment prior to beginning the assignment with another agency.

#### V. ESTIMATED COST OF LEGISLATION

##### *S. 1683—Federal Law Enforcement Pay and Benefits Parity Act of 2003*

S. 1683 would require the Office of Personnel Management (OPM) to submit a report to the Congress by April 30, 2004, on the different pay and benefit classifications used by federal law enforcement agencies. The report also would include recommendations to eliminate the disparities between different agencies in pay and benefits for law enforcement personnel. In addition, the bill would establish an employee exchange program for law enforcement officers working for federal, state, and local governments.

CBO estimates that implementing S. 1683 would have no significant impact on the federal budget. Based on information from OPM, we estimate that the cost to complete and distribute the report would be less than \$500,000 in fiscal year 2004, assuming the availability of appropriated funds. In addition, the Intergovernmental Personnel Act (IPA) Mobility Program already authorizes the temporary assignment of personnel exchanges between the federal government and state and local governments. Any exchange of employees that involves reimbursement would be subject to the availability of appropriated funds. OPM's Office of Merit Systems Oversight and Effectiveness, which oversees IPA, estimates that there are currently about 2,100 individuals involved in this exchange program, including fewer than 10 law enforcement personnel. CBO expects that establishing a new exchange program specifically for law enforcement officers would not have a significant impact on the federal budget.

S. 1683 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis Division.

#### VI. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out this bill."

The enactment of this legislation will not have significant regulatory impact.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that the legislation is a free-standing bill that will make no changes to any existing law.

